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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/559,685	12/06/2005	Kimiaki Ando	061282-0168	3013
53080 7590 06/23/2009 MCDERMOTT WILL & EMERY LLP 600 13TH STREET, NW WASHINGTON, DC 20005-3096			EXAMINER TRINH, SONNY	
			ART UNIT 2618	PAPER NUMBER
			MAIL DATE 06/23/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/559,685

**Applicant(s)**

ANDO, KIMIYAKI

**Examiner**

Sonny TRINH

**Art Unit**

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 April 2009.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.  
4a) Of the above claim(s) 3-18 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1 is/are rejected.  
7) ☒ Claim(s) 2 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 13 April 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/5508)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Current Status:***

1. This Office Action is in response to the amendment filed 03/13/09. Claims 1-18 are pending. Claims 3-18 are withdrawn and must be canceled when the case is ready for issuing.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1-2 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claim 1** is rejected under 35 U.S.C. 103(a) as being unpatentable over Yamada et al. (hereinafter "Yamada"; U.S. Patent Number 6,980,585) in view of Tsumura (U.S. Patent Number 6,574,200).

Regarding **claim 1**, Yamada discloses a receiving device (figures 1-2, column 4 line 31 to column 5 line 61) for carrying out an interpolating synchronous detection (column 6 line 66 to column 7 line 21) when receiving a code division multiple signal (CDMA column 1 lines 13-38), comprising: storage means for storing receive data which

are an object to be detected synchronously (figure 2, memory 32, column 6 line 53 to column 7 line 16) and control means for switching a storage of the receive data to be detected synchronously in the storage means (figure 2, control/selector 50). However, Yamada does not explicitly disclose that the data are the object to be detected synchronously in the storage means before or after a reverse diffusion. In an analogous art, Tsumura discloses a receiving device (CDMA receiver (abstract)) for carrying out an interpolating synchronous detection when receiving a code division multiple signal (claims 1-8, 23-27). Tsumura further discloses the control means for switching a storage of the receive data which are the object to be detected synchronously in the storage means before or after de-spreading (column 18 lines 24-42).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to include, within the Yamada's system, the control means as taught by Tsumura, to the system of Yamada. The motivation for doing so would be to compensate path fluctuation between transmission and reception.

***Allowable Subject Matter***

5. **Claim 2** is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding **claim 2**, the applied references fail to disclose or render obvious the claimed limitations of the receiving device according to claim 1, wherein the control

means changes a storage order for the receive data based on symbol rate information obtained when demodulating the receive data.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sonny TRINH whose telephone number is 571-272-7927.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay MAUNG can be reached on 571-272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sonny TRINH/  
Primary Examiner, Art Unit 2618

6/23/09